UNITED
NATIONS

CRC

Convention on the
Rights of the Child

Distr.
GENERAL

CRC/C/SR.541
31 May 1999

Original: ENGLISH

COMMITTEE ON THE RIGHTS OF THE CHILD

Twenty-first session

SUMMARY RECORD OF THE 541st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 25 May 1999, at 10 a.m.

Chairperson: Mrs. MBOI

CONTENTS

CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Second periodic report of Honduras

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.99-42119 (E)

The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 6) (continued)

Second periodic report of Honduras [CRC/C/65/Add.2; CRC/C/Q/HON/2 (list of issues); written replies of the Government of Honduras to questions raised in the list of issues (document with no symbol distributed in the meeting room in Spanish only)]

1. At the invitation of the Chairperson, Mr. Valladares Valladares, Ms. Melendez, Mr. Villanueva and Ms. Bu Figueroa (Honduras) took places at the Committee table.

2. The CHAIRPERSON welcomed the Honduran delegation and thanked it for submitting its report in a timely manner. Regrettably, since the written replies had arrived too late to be translated, few members of the Committee would be able to consult them. The Committee was keenly concerned about the impact of Hurricane Mitch, particularly on the country's ability to protect its children in the wake of the disaster. She invited the delegation to present its opening remarks.

3. Mr. VALLADARES VALLADARES (Honduras) said that a meeting was being held that same day in Stockholm between representatives of the Government of Honduras and a number of organizations that provided international assistance. A set of documentary photos had been prepared for that occasion, illustrating the magnitude of the devastation wrought by Hurricane Mitch, which his delegation would circulate to the Committee. The consequences had been so extreme that the situation described in the second periodic report now served only as a benchmark for reconstruction efforts. Within 72 hours, 75 per cent of all existing agricultural production had been devastated and 90 per cent of all main bridges and roads destroyed. Infrastructure damage had been so great that for several weeks almost no town or village had been able to communicate with its nearest neighbour. More than 1,300 temporary shelters had been constructed immediately; 35 per cent of the population had lost their homes. The number of dead had reached 5,657; 2,262 persons had been injured and approximately 8,000 were considered missing. An estimated 4.2 million Hondurans, or 70 per cent of the population, had lost their access to drinking water. The Economic Commission for Latin America and the Caribbean (ECLAC) had estimated the damage at US$ 3,794 million, a sum greater than Honduras' total foreign debt, to which should be added US$ 47.6 million in lost export revenues. The impact on children and other vulnerable groups had been enormous: an estimated 50,000 children were still living in temporary shelters.

4. Honduras was a State party to a significant number of international and inter-American human rights instruments, and in particular those designed to protect children, women, the family and the environment. With a view to implementing the terms of those instruments, Honduras had introduced new legislation, including the Code on Children and Adolescents, which reflected the principles enshrined in the Convention on the Rights of the Child. The Code emphasized such essential matters as the definition of the child and protection for unborn children. It provided that children aged 12 and over

were criminally responsible for their actions, and established a justice system for children between the ages of 12 and 18, which was distinct and separate from that for adults. It also set forth the principle of presumption of minority, according to which, where the age of a young person could not be established, he or she would be treated as a child under the law.

5. Other Honduran legislation established the principle of the best interests of the child, set out priorities for the formulation of social, administrative and juridical policies regarding children, and provided that Government officials who failed to implement such measures were accountable for their actions. The right to due process was also guaranteed, including the right to a fair hearing, to be tried in the presence of parents or guardian, to be assisted by counsel (at State expense where necessary), to be informed of the charges laid, and to be consulted in connection with decisions that entailed consequences. The trial of a child could result in a number of measures: deprivation of liberty was considered a last resort. Honduran domestic legislation stipulated that all children had inalienable rights and expressly prohibited any measures or actions which prejudiced the full realization of those rights.

6. By way of implementation of the terms of the Convention, the Code on Children and Adolescents provided that the Honduran Institute for Children and the Family (IHNFA) would supervise the implementation of children's rights, including in particular the right to education, health and recreation.

7. Crucial recent advances included the enactment of legislation prohibiting domestic violence and the creation of a National Commission for the gradual eradication of child labour. In addition, amendments to the Penal Code criminalized such offences as sexual and physical abuse of children. Other new legislation emphasized the importance of community participation and mutual responsibility in the implementation of policies on behalf of children, adolescents and women.

8. Moreover, Honduras had made notable advances in the development of its democratic framework, which complemented the implementation of the human rights instruments to which it was a party. It had put the Minister of Defence in charge of the armed forces, thereby eliminating the post of chief of the armed forces and subjecting the military to civilian control. It had abolished compulsory military service, taken measures to strengthen the judiciary, and accorded constitutional rank to the post of national ombudsman. Finally, the Committee's concluding observations from the seventh session had served as the inspiration for many legislative and social decisions affecting the lives of children and adolescents.

9. Mr. FULCI said that the Committee was aware that Hurricane Mitch had inflicted enormous damage in Honduras. The State party should indicate the number of child victims, and explain why so many people were still listed as missing. It was encouraging to note that the assistance provided by the international community in the wake of the disaster had been channelled directly into programmes to help children. The report had highlighted continuing problems regarding the registration of births; it would be instructive to know what impact the hurricane had had on those problems.

10. Mrs. MOKHUANE said that additional information should be provided on the achievements of the National Commission on the Rights of the Child, since the Committee had learned from independent sources that it had not met since 1997. It would be useful to gain greater insight into the obstacles and challenges that had arisen in its work. The Committee had also been informed that scant progress had been made with regard to the training of juvenile judges, and would welcome the reporting State's comments on the matter. Further details should be supplied on progress with legislation to rehabilitate disabled children, particularly with regard to practical implementation and relevant structures. The report and oral presentation contained inadequate information about the development of statistical indicators and disaggregated data; further details were therefore required. Finally, the reporting State should comment on the lack of resources to enforce the Penal Code.

11. The CHAIRPERSON invited the members of the Committee to focus their questions on general measures of implementation.

12. Mrs. SARDENBERG said that the endemic poverty and violence in Honduran society had clearly been aggravated by Hurricane Mitch. The State party's report was self-critical, informative, and demonstrated the Honduran Government's willingness to maintain a dialogue on the rights of the child. Although significant progress had been made, many shortcomings still needed to be addressed. The adoption of the Code on Children and Adolescents was obviously a major development, but it was imperative that its provision should conform to those of the Convention. The Committee had also gained the impression that, notwithstanding the Government's decision-making role, there was a general reluctance to enforce and implement policy. That task had been left to non-governmental organizations (NGOs) which were materially and financially ill-equipped for such a role. Finally, the delegation should clarify the Honduran Government's position on the age of criminal responsibility. Any attempt to lower the age limit would simply be a palliative and would avoid tackling the real causes of crime.

13. Mr. RABAH said that the Committee would be grateful for more details on efforts to disseminate the Convention. The respective roles of civil society and non-governmental organizations in that process should be described. A more detailed account was required of recent efforts to harmonize internal legislation and the provisions of the Convention. Finally, additional material on the extent of discrimination against girl children and minorities would be appreciated.

14. Mr. DOEK asked the delegation to provide more details about the Honduran Government's presentation to the Stockholm Meeting.

15. Mrs. OUEDRAOGO said that more details were required on how the Honduran authorities intended to harmonize the Code on Children and Adolescents with existing legislation, and on the steps that were being taken to ensure that the Code was widely publicized. In addition, the delegation should provide more information on measures to overcome resistance to the Code, and the extent to which the indigenous populations had been involved in drafting it. Had it been translated into indigenous languages? The Committee had noted that children's advocates were active in most municipalities; what was the position in municipalities which did not have a children's advocate? The

Honduran Government should also indicate whether, in its own opinion, it had been successful in disseminating the Convention, especially among indigenous people. It was unclear whether the State party's initial report and the corresponding observations of the Committee had been published.

16. Mrs. KARP said that there seemed to be a lack of continuity between the revision of legislation and the establishment of institutions on the one hand, and de facto implementation and enforcement on the other. Public attitudes were a crucial factor. The deep-rooted subculture of violence in Honduras contrasted markedly with the underlying principles of the Convention. The Committee had noted that attempts were being made to include children in the reconstruction process following Hurricane Mitch, but it was unclear whether that inclusive approach had had any major impact on public consciousness and general attitudes towards children. The delegation should provide additional information on the statistical methodology which it intended to use in the forthcoming 2000 census, and specifically on whether it would be possible to employ disaggregated data to pinpoint individual violations of children's rights. On the issue of coordination between the various components of national human rights machinery, it was clear that the twin dangers of compartmentalization and proliferation should be avoided. It appeared that the municipal children's advocates were unpaid volunteers, thus raising the concern that they might not be able to devote themselves entirely to the cause of children's rights. More details were required on their powers. Could they conduct investigations and oblige the authorities to divulge information? Evidence should also be produced to show that the protection of children's rights was in fact a genuine item on municipal agendas.

17. Although the family was the cornerstone of the national system for promoting and protecting children's rights, it appeared that the necessary political and financial support for the family was lacking. There were only four regional offices of the Honduran Institute for Children and the Family (IHNFA), and they lacked staff or a budget. Given those handicaps, the reporting State should indicate how it expected them to fulfil their mandate. The distinction between the various kinds of family counselling on offer should be made more explicit. Finally, in view of the abolition of the secretariat which had formerly coordinated government action in the field of children's rights, the Committee would appreciate learning what structure, if any, was currently responsible for coordinating national machinery in that area.

The meeting was suspended at 11.20 a.m. and resumed at 11.30 a.m.

18. Mr. VALLADARES VALLADARES (Honduras) said that 50 per cent of the victims of Hurricane Mitch, and half of those still listed as missing, were children. In some areas whole communities had disappeared without a trace and it was obviously very unlikely that anyone could have survived.

19. It was hoped that the Stockholm Meeting would bring together non-governmental organizations, civil society, financial backers and Governments. Resources would be allocated directly to non-governmental organizations and national and international bodies with a view to rebuilding the country's infrastructure. The Stockholm Meeting was neither the beginning

nor the end of national reconstruction efforts, but it was nevertheless a focal point in the dialogue between the international community and Central America.

20. A number of bodies were responsible for children's issues in Honduras. The National Commission on the Rights of the Child had been abolished when the Code on Children and Adolescents had been adopted. Its mandate and functions had been taken over by the Honduran Institute for Children and the Family (IHNFA), in which children played a participatory role. The IHNFA had been responsible for a number of initiatives, for example in the field of child labour and the handling of international cooperation, and it also acted as a forum for civil society and non-governmental organizations.

21. Social indicators were of vital importance to the authorities, who refrained from decision-making until all the relevant information was in their possession. They had already approached the United Nations Development Programme and the World Bank for assistance in ensuring that the social indicators for the 2000 census would include disaggregated data on child labour, child abuse and access to public services. Those efforts were complemented by other data-collection tools, such as biennial household censuses and the child information network, which measured the level of services provided by the various governmental and non-governmental agencies. With the help of those instruments, the authorities were endeavouring to assemble specific disaggregated data on the progress made and the existing obstacles to children's enjoyment of their rights. The 2000 census was expected to update all available information.

22. Non-governmental organizations (NGOs) concerned with children's issues in Honduras enjoyed a very high profile. For instance, 90 per cent of disabled children were cared for through a network of some 23 NGOs known as the National Council for Disabled Children (CONAMED).

23. Turning to enforcement of the Code on Children, he said that some of its articles perpetuated an irregular situation. It had been evaluated with the help of UNICEF and the articles concerned had been carefully dealt with in the evaluation report. For the most part, they were linked with the ever-present idea of lowering the age of responsibility. The time was not ripe for a debate on reform of the Code in the National Congress. Given the widespread violence in Honduras and the flaws in the juvenile criminal justice system, which was widely regarded as being too lenient on young offenders, support was growing for stiffer penalties against minors who committed serious offences. However, there was a risk that the proposed reforms would prompt Congress to lower the age of criminal liability. In the past, the juvenile courts had been more concerned with social problems than with criminal offences.

24. The Honduran Institute for Children and the Family (IHNFA) had been established precisely to deal with social issues, thus freeing the courts to hear cases of breaches of the law.

25. With regard to sentencing reviews, one article of the Code left open the possibility, at the review stage, of reimposing the original sentence which must then be served a second time, instead of lightening the previous sentence. Although that option had never been exercised, its existence should

be borne in mind. Fortunately, the judicial and social welfare authorities interpreted the Code in broad terms rather than analysing each individual article. That approach was facilitated by the fact that, at the time of the legislative debate, a "Comisión de Dictamen" had introduced amendments to the original draft Code. However, the IHNFA, UNICEF and a few other institutions were anxious to ensure that the operators of the system received training which placed emphasis on the need to refrain from restricting the enjoyment of children's rights. At some stage, the Code would be referred back to the National Congress for further amendment.

26. On the subject of effective implementation of the Code on Children, figures were more eloquent than words. In 1994 (the first year covered by the report), children had been deprived of their liberty in over 90 per cent of cases heard by the juvenile courts. Alternative measures were currently applied in 70 per cent of cases, thus greatly reducing the number of young offenders deprived of their liberty. That was clear evidence that the Code on Children was being implemented. As yet, not all the alternative measures were in place since some of them involved programmes run not by governmental bodies, but rather by structures such as the municipal children's advocates and the local children's councils.

27. The Code on Children had also had a significant impact on matters not dealt with by the juvenile criminal justice system, such as child abuse. The definition of abuse contained in the Code transcended purely physical abuse and addressed acts of neglect, infringement or suppression of a right, which could be prosecuted in the criminal system or addressed within the families in which they occurred. Family counsellors (under the Ministry of Health) and the Honduran Institute for Children and the Family (IHNFA) (formerly the National Social Welfare Board (JNBS)) applied the principles of preventive community involvement through educational activities, crisis management and the like. While geographical coverage was still limited to the main urban centres, efforts were being made to extend the experiment to the municipal level. In addition to the municipal children's advocates and other forms of community participation established in the Code on Children itself, children's councils were being organized in some municipalities, which also involved teachers, doctors, nurses, and other forms of community organization typical of the country. They dealt with such matters as dissemination of the rights of the child, appointment and training of children's advocates and community participation in the protection, dissemination and enforcement of children's rights. Municipal advocates did not submit cases to the courts on behalf of children, nor did they have the same remit as an ombudsman. Rather, they were community facilitators for publicizing the Convention and monitoring its implementation.

28. The National Commission for Human Rights had departmental and, sometimes, municipal delegates for the functions to which some Committee members had referred, such as collecting information and intervening in police cases or in cases where rights had been violated. Those posts were usually occupied by retired teachers working on a part-time basis, who were credible leaders within their communities.

29. With regard to the implementation of the Code, the Committee was probably aware that there had been extremely effective follow-up in recent

years, including cases submitted to the Inter-American Commission on Human Rights, which had recognized the country's success in dealing with serious child rights violations.

30. The IHNFA was not merely a coordinating body, but a full participant, in implementation efforts, together with the governmental agencies and the NGOs. The Committee's reference to abandonment of responsibility might be due to a misinterpretation of the joint State-NGO efforts on behalf of children. The law on children and the family referred unequivocally to several joint undertakings by the Government and the NGOs, with participation by the IHNFA, which had achieved spectacular success in a single year.

31. The ultimate goal was to give the IHNFA decentralized offices in seven regions, covering the entire national territory. Four such regional offices were currently fully operational; the intention was not to establish large offices, but to set up technical units to cover community needs, while the Government would provide the financial resources and support for attaining the objectives. What was needed, therefore, was Government capacity to fulfil that vision.

32. The implementation of nationwide projects by private organizations called for the strengthening of institutions, an area in which the IHNFA had already demonstrated its capabilities. Over 135 projects were in progress, forming the basis of an integrated approach to child care. The country aspired to abandoning the traditional formula of the day-care centre, where children were deposited by their parents, in favour of a system in which committed parents would evaluate the type of care received by their children. To that end, the IHNFA needed to be assured of greater financial commitment backed up by the necessary political will.

33. Four years previously, the child-care system had concentrated on urban areas; now that there were four regional centres, the situation had greatly improved. However, the IHNFA required greater political and financial support for its preventive programmes, such as family counselling, parent education, pre-marital counselling, alternatives to imprisonment, monitoring of compliance with the Convention, etc.

34. The country was implementing a series of action plans: not only had the National Commission on child labour already received resources from the International Labour Organization, but national counterpart resources had also been allocated. There was also an informal project concerned with child-related information and the juvenile justice system.

35. Mr. VILLANUEVA (Honduras) explained that Honduras was a multi-ethnic, multicultural and multilingual society with eight indigenous nations which traditionally inhabited the more inaccessible areas of the country. They were divided into a number of American and Caribbean cultures and others from post-sixteenth century demographic movements, all now comprising their own ethnic groups. Honduras was a signatory to ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, which was an integral part of Honduran domestic law. That convention was implemented with the full participation of the various indigenous groups, all of whom had their own countrywide organizations which worked hand in hand with the State to promote

their rights. The Honduran Public Ministry ("Ministerio Publico") had a specialized legal department devoted to ensuring that the rights of the indigenous populations were protected and that any abuses, whether perpetrated by individuals or groups, were punished.

36. A body of information had been collected and disseminated to improve those populations' awareness of their rights, and action was also being taken to ensure publication of Convention 169 and any additional information concerning the rights of indigenous peoples. The indigenous institutions had collaborated with the Government to ensure that those rights were viable and to promote unimpeded access to the courts. A specialized entity, the National Ethnic Commission, had been established and attached to the Office of the President of the Republic to serve as interlocutor in relation to all indigenous claims and demands. There was also a National Council of Ethnic Groups comprising officials of the State Secretariat responsible for indigenous affairs, which received considerable input from the indigenous peoples.

37. The indigenous peoples had not participated in the drafting of the legal texts governing their lives, since the basic legal instrument recognizing their ancestral, traditional rights was in the early stages of implementation. The Procurator's Office ("fiscalía") was striving to secure a more active role for indigenous groups in all matters concerning them and in the protection of their interests.

38. Mr. VALLADARES VALLADARES (Honduras) said that neither the first report nor the Committee's comments had been published, although the report had always been borne in mind when action plans to assist children had been devised. Some of the Committee's recommendations had been followed, others had been incorporated in general strategies and measures to improve the situation of children. The IHNFA firmly intended to publish and circulate the Committee's reports. Schools had been fully informed about them and made aware not only of the rights enshrined in the Convention, but also of the responsibilities and work of the Committee.

39. A unit of the Office of the National Commissioner for Human Rights had been focusing on children's rights and issues since 1994, but some of its functions had been transferred to the IHNFA after the latter's establishment. That was why the ombudsman had decided to postpone his participation in the Honduran delegation. He had, however, retained some specific responsibilities in the area of children's rights.

40. Mrs. MELENDEZ (Honduras) said that the Honduran juvenile justice system comprised 9 children's courts and 11 specialized judges. In areas where no special courts existed, departmental judges heard cases involving children. Judges received extensive training in respect of the children's rights embodied in national laws and international instruments. That training was organized by the "Ministerio Publico", public defenders and the judiciary, with the assistance of the European Union, the United Nations and Spain.

41. The CHAIRPERSON invited the members of the Committee to put questions regarding general principles and civil rights and freedoms.

42. Mr. DOEK asked if it was true that secondary schoolchildren's organizations had been prohibited by decree. How did children participate in the general process of decision-making which affected their lives? Had working children been involved in the establishment of the National Commission on child labour or in the formulation of the plan to eliminate or reduce child labour? How did the Code on Children regulate the participation of children in civil legal proceedings? Did a child have the right to be heard in such proceedings? Did that right depend on the child's age? Were judges obliged to invite children to attend a hearing? Did children have the right to enter an appeal against a court decision?

43. Mr. FULCI queried the estimated figure of 2,000 street children in Tegucigalpa. Had the Government considered conducting research into the abuse of children? Had any cases of maltreatment of or police brutality against children been brought before the domestic courts? How many complaints of police brutality against street children had been processed during the period covered by the report? What measures had been taken to rehabilitate street children and give them access to the justice system?

44. Mrs. SARDENBERG welcomed the precise information given in the written replies. She asked whether the national reconstruction plan placed emphasis on children's rights. Would the 2000 census shed light on the situation of children and young people? Seeking more information about indigenous children, she asked what steps had been taken to improve their situation through implementation of the Committee's recommendations on that subject.

45. Mrs. OUEDRAOGO asked what measures had been adopted to enforce the programme to combat discrimination against women and the indigenous population. What steps had been taken to ensure that consideration was given to children's opinions in the school system? What level of success had been achieved by the participatory school project? What developments had taken place within the family and within society in general in that respect? How far did children's participation extend in schools? Was punishment discussed with children? Did children take part in the decision-making process? Were they represented by any associations or groups in the discussions leading up to administrative decisions by the head teacher or the Ministry of Education? What interaction was there between the national plans of action for human development, children and youth and the overall National Plan of Action? What coordination problems existed? Had the awareness campaign on the registration of births had any impact? What information was included in the register of births when children were not recognized by their fathers? Did the new law still contain restrictions on the names that could be given to indigenous children? Had indigenous ethnic groups been made aware of the need to register the births of their children? What facilities existed for them to do so? In what language did they register births? Did such facilities have the requisite staff? What measures were taken to register babies who had been born at home?

46. Mrs. KARP urged Honduras to ratify the International Convention on the Elimination of All Forms of Racial Discrimination. Did the National Plan of Action give any priority to reducing child mortality in the southern and western areas of the country, where access to health services was poor? What was the rationale behind the difference in the ages at which girls and boys

were deemed to reach adolescence? Were there any general guidelines regarding the right of children to have their opinions taken into account whenever a matter concerning them was discussed or decided within the family? As the report had stated that a child's right to lodge a complaint depended on parental consent, what happened when there was a conflict of interests between children and their parents? Was active participation in schools a widespread phenomenon or was it still in the planning stage? To what extent did children participate in the implementation of the Convention? What steps had been taken to investigate complaints about police brutality and violence against street children and to bring the culprits to trial? What were the working methods of the centre for the elimination and prevention of torture? Was corporal punishment banned in schools and institutions? Were there any plans for a campaign against corporal punishment in the home?

47. Mr. RABAH inquired whether the courts had issued any decisions regarding corporal punishment. He requested more details about the protection of privacy and the contribution made by the Office of the National Commissioner for Human Rights and non-governmental organizations to the elaboration of criminal sanctions for cruelty and torture. Additional information about the complaints procedure and remedies available to children would be welcome.

48. Mrs. MOKHUANE said that she would like to know more about measures designed to promote respect for children's views in the family and in schools. What percentage of births went unregistered?

The meeting rose at 12.55 p.m.